

1 PHILLIP A. TALBERT  
United States Attorney  
2 DAVID W. SPENCER  
Assistant United States Attorney  
3 501 I Street, Suite 10-100  
Sacramento, CA 95814  
4 Telephone: (916) 554-2700  
Facsimile: (916) 554-2900  
5

6 Attorneys for Plaintiff  
United States of America  
7

8 IN THE UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA,  
12 Plaintiff,  
13 v.  
14 HERMENEGILDO MANUEL MEJORADO-  
SOTO,  
15 Defendant.  
16

CASE NO. 2:20-CR-166-JAM  
STIPULATION TO CORRECT SENTENCE;  
ORDER

17  
18 The defendant, Hermenegildo Manuel Mejorado-Soto was sentenced on February 8, 2022. Since  
19 then, the parties became aware that the Court imposed a term of supervised release of 36 months  
20 (unsupervised, if deported), while the statute of conviction requires a term of 60 months. The Probation  
21 Officer noticed this error and discovered that it reflected an error in the pre-sentence report ("PSR").  
22 Specifically, while page 3 of the PSR recommended a five-year term of supervised release, the PSR  
23 recommended 36 months of supervised release in the final recommendation on page 23. In order to  
24 correct this clear error, the parties hereby agree and stipulate as follows:

- 25 1. The Court has jurisdiction to correct a clear error in a sentence within 14 days after  
26 sentencing. *See* Fed. R. Crim. P. 35(a) ("Within 14 days after sentencing, the court may  
27 correct a sentence that resulted from arithmetical, technical, or other clear error.").  
28

2. The statute of conviction requires the Court to “impose a term of supervised release of at least 5 years.” 21 U.S.C. § 841(b)(1)(A).
3. Where the oral sentence does not include a term that is mandated by statute, that term should be included in the written judgment pursuant to Rule 35. *See, e.g., United States v. Johns*, 435 F. App’x 628, 629 (9th Cir. 2011); *United States v. Colace*, 126 F.3d 1229, 1231 (9th Cir. 1997); *United States v. Mack*, 494 F.2d 1204, 1207 (9th Cir. 1974) (quoting *United States v. Bozza*, 330 U.S. 160, 166-67 (1947); *United States v. Clark*, 538 F.3d 803 (7th Cir. 2008).
4. Accordingly, the written judgment in this case should include a term of supervised release of 60 months (unsupervised, if deported).

IT IS SO STIPULATED.

Dated: February 11, 2022

PHILLIP A. TALBERT  
United States Attorney

/s/ DAVID W. SPENCER  
DAVID W. SPENCER  
Assistant United States Attorney

Dated: February 11, 2022

/s/ LUPE MARTINEZ  
LUPE MARTINEZ  
SHANNAN DUGAN  
Counsel for Defendant  
HERMENEGILDO MANUEL  
MEJORADO-SOTO

**FINDINGS AND ORDER**

For the reasons stated in the parties' stipulation, and good cause having been shown,

IT IS HEREBY ORDERED that pursuant to Federal Rule of Criminal Procedure 35, the judgment and sentence in the above-captioned matter shall be amended to include a term of supervised release of 60 months (unsupervised, if deported).

IT IS SO FOUND AND ORDERED this 14<sup>th</sup> day of February, 2022.

/s/ John A. Mendez

---

THE HONORABLE JOHN A. MENDEZ  
UNITED STATES DISTRICT COURT JUDGE